Honorable Marc L. Barreca
Chapter 7
Hearing Date: May 18, 2012
Hearing Time: 9:30 a.m.
Hearing Place: Courtroom 7105
Response Date: May 11, 2012

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In re ADAM R. GROSSMAN, Debtor.	No. 10-19817-MLB OBJECTION BY JILL BORODIN TO MOTION FOR ABANDONMENT OF 1697 STRAUSS LANE AND 773 METRO WAY TO THE DEBTOR

Jill Borodin, a creditor herein, by and through counsel, Steven J. Reilly of Crocker Law Group PLLC, objects to Debtor's motion for an order abandoning 1697 Strauss Lane and 773 Metro Way in Redding, CA, to the Debtor, as follows.

The Debtor's motion is difficult to comprehend and cites no legal authority. Assumedly, Debtor is bringing an 11 U.S.C. § 554(b) motion. Section 554 provides that the court *may* order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate. *11 U.S.C. § 554(b)* (emphasis added).

CROCKER LAW GROUP PLLC
720 Olive Way, Suite 1000, Seattle, WA 98101
P) 206-624-9894 F) 206-624-8598
www.crockerlaw.com

An order compelling abandonment is "the exception, not the rule." *Yack v. Wash. Mut. Bank (In re Yack), 2009 Bankr. LEXIS 4554 (B.A.P. 9th Cir. Feb. 18, 2009).* The Debtor must prove by a preponderance of the evidence that the property is burdensome or of inconsequential value to the estate. *Vu v. Kendall (In re Vu), 245 B.R. 644 (B.A.P. 9th Cir. Cal. 2000).* Nothing in the Bankruptcy Code requires that a trustee demonstrate in advance of attempting a sale that the sale price will exceed all costs and encumbrances, and absent an attempt by the trustee to churn property worthless to the estate just to increase fees, abandonment should rarely be ordered. *Id. at 647-648* (citations omitted).

Here, the Debtor seems to be arguing that the Strauss Lane and Metro Way properties are burdensome to the estate, and that Debtor has brought this motion because he wishes to protect his ex-wife from possible negative consequences to her credit. There are two main problems with this argument.

First, Debtor presents a number of figures that allegedly demonstrate that there is no equity in the properties. However, it is the Debtor's burden to prove that the properties are a burden to the estate and Debtor does not present a scintilla of documentation or evidence to support any of his assertions of value or benefit to the estate.

Additionally, the speculative analysis that Debtor provides is also incomplete and thus impossible to accurately evaluate. For example, the Debtor states that there is $119,775 in 'Phantom U.S. Income Tax Liability' because Strauss Lane was purchased in

CROCKER LAW GROUP PLLC
720 Olive Way, Suite 1000, Seattle, WA 98101
P) 206-624-9894 F) 206-624-8598
www.crockerlaw.com

1989, and has an adjusted basis of $18,000[1]. However, capital gains tax is reduced and adjusted basis is raised by any improvements made to the property. As the property was purchased in 1989, it seems likely that there have been improvements made in the last 20 years. The Debtor also fails to state the adjusted tax basis of the Metro Way property. Any potential capital gains from the Strauss Lane property could be offset by any potential capital losses of the Metro Way property. So, even if the Court were to give weight to Debtor's unsupported value/benefit analysis, it still does not provide sufficient information to accurately assess the potential benefit of the properties to the bankruptcy estate.

Second, Debtor alleges that the motive behind this motion is to protect his ex-wife from negative consequences to his credit. This reasoning is suspect at best. Debtor and his ex-wife have been entrenched in a contentious and litigious dissolution proceeding. Debtor has violated the provisions of the dissolution decree on countless occasions and has attempted to use the Bankruptcy Court as a vehicle for his animus. *See Claim17-1* (showing writs of garnishment for failure to pay domestic support obligations).

Assuming *arguendo* that this Court finds that Strauss Lane and Metro Way were a burden or of inconsequential value to the bankruptcy estate, this Court should still not allow these properties to be abandoned to the Debtor. As this Court will note from the related adversary proceeding, 11-01954-MLB, **the debtor has engaged in 17 post-**

[1] Creditor's counsel would like to reiterate that there is no documentation to support any of these figures or assertions.

CROCKER LAW GROUP PLLC
720 Olive Way, Suite 1000, Seattle, WA 98101
P) 206-624-9894 F) 206-624-8598
www.crockerlaw.com

petition transfers. Rabbi Borodin fears that if the property is abandoned to the Debtor, he will have the opportunity to engage in further inappropriate and illegal conduct to her detriment.

The Debtor is proposing an offer that affects the rights and duties of Rabbi Borodin that has not been accepted or even discussed, and is attempting to bind her with this motion. Debtor has engaged in a litany of improper activity in this bankruptcy case and allowing the properties to remain under the control of the Trustee will insure that there is no further malfeasance on the part of the Debtor, at least in relation to these properties.

For the reasons stated above, Debtor's motion should be denied in its entirety.

DATED this 11th day of May 2012.

CROCKER LAW GROUP PLLC

By *____/s/ Steven J. Reilly________________*
Steven J. Reilly, WSBA #44306
Attorneys for Jill Borodin

CROCKER LAW GROUP PLLC
720 Olive Way, Suite 1000, Seattle, WA 98101
P) 206-624-9894 F) 206-624-8598
www.crockerlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2012, I caused a copy of the foregoing to be served via CM/ECF on the following parties:

Jennifer L Aspaas on behalf of Creditor PNC Bank, National Association ecf@rcolegal.com

Ronald G Brown rgblaw@nwlink.com , rgbrown@ecf.epiqsystems.com

William L. Courshon on behalf of US Trustee United States Trustee bill.l.courshon@usdoj.gov , Young-Mi.Petteys@usdoj.gov;Tara.Maurer@usdoj.gov

Bradley Boswell Jones on behalf of Creditor Wells Fargo Bank NA bbjlaw301@hotmail.com , wmp935@hotmail.com

Hugh R. McCullough on behalf of Defendant Lyman Opie hughmccullough@dwt.com , elainehuckabee@dwt.com;seadocket@dwt.com

Denice E Moewes on behalf of Plaintiff Ronald Brown dmoewes@aol.com, tessmkent@aol.com

Gloria Z Nagler on behalf of Spec. Counsel Tsai Law Company gloria@naglerlaw.com , david@naglerlaw.com

Matthew D. O'Conner on behalf of Special Request Law Office of Matthew D. O'Conner pacer@mdolaw.com , dana@mdolaw.com

John H O'Rourke on behalf of Spec. Counsel Tsai Law Company johnhorourke@comcast.net

Martin L. Smith on behalf of Plaintiff United States Trustee martin.l.smith@usdoj.gov , Young-Mi.Petteys@usdoj.gov;Tara.Maurer@usdoj.gov;Martha.A.VanDraanen@usdoj.gov

United States Trustee USTPRegion18.SE.ECF@usdoj.gov

CROCKER LAW GROUP PLLC
720 Olive Way, Suite 1000, Seattle, WA 98101
P) 206-624-9894 F) 206-624-8598
www.crockerlaw.com

Jeffrey B Wells on behalf of Debtor Adam Grossman paralegal@jeffwellslaw.com

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 11th day of May 2012, at Seattle, Washington.

/s/ Nancy Hunter

Nancy Hunter, CBA

CROCKER LAW GROUP PLLC
720 Olive Way, Suite 1000, Seattle, WA 98101
P) 206-624-9894 F) 206-624-8598
www.crockerlaw.com